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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/700,090      | 11/03/2003  | Martin L. Dehen      | 2003-2036.ORI       | 2793             |

23165 7590 12/29/2004

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| EXAMINER |
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GRAHAM, MARK S

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| ART UNIT | PAPER NUMBER |
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3711

DATE MAILED: 12/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/700,090

**Applicant(s)**

DEHEN, MARTIN L.

**Examiner**

Mark S. Graham

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 10-17 and 21-23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9, 19 and 20 is/are rejected.
- 7) ☒ Claim(s) 18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 11/3/05
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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Applicant's election with traverse of the Fig. 3 embodiment in the reply filed on 10/19/04 is acknowledged. The traversal is on ground(s) that have not been explained. This is not found persuasive because no reason for the traverse has been given.

The requirement is still deemed proper and is therefore made FINAL.

Claims 10-17 and 21-23 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected embodiment, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 10/19/04.

Applicant's claim of domestic priority is acknowledged.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 4, 5, 6, 7, and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Kirk. Kirk discloses the claimed structure and may be used for the same purpose. A blade may be inserted under bands 21, with the other portion of the L considered the floor portion.

Regarding claims 4, 5, and 6, Kirk's device being of the same shape as the applicant's, inherently meets the L and V configurations claimed with regard to it.

Concerning claims 7 and 9, the upper side of the bands 21 of the floor portion converge in a curving fashion towards the leading edge thus causing the surfaces to taper towards one another.

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Claim 8 is rejected under 35 U.S.C. 102(b) as being anticipated by Glockner.

Note base 6 and floor 10.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Costello in view of Coughtrie. Costello discloses the claimed device with the exception of channels to attach the attachment to the blade. However, as disclosed by Coughtrie it is known in the art to use such to attach attachments to the blade. It would have been obvious to one of ordinary skill in the art to have used such to attach Costello's device if it was desired to use it on an iron type golf club.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kirk in view of Stover et al. (Stover) and Haumschilt et al. (Haumschilt). For the reasons explained previously Kirk discloses the claimed device with the exception of the "object". However, as Haumschilt teaches it is known in the art to use devices such as Kirk's to play with footbags. Stover discloses that such footbags may be of a shape that resembles dogwaste. It would have been obvious to one of ordinary skill in the art to have provided Kirk's device with a footbag such as Stover's so that the user could play a footbag game.

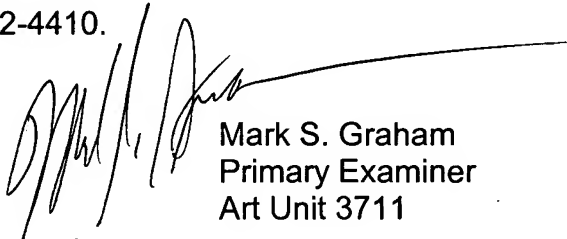
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Claim 18 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Etersque, Klay, Rohrer, Hale, Belding, Prewitt, Weathers, Haqwkins, Sr. et al., Rupnik et al., Shier, Hitt, Watkins, Rocca, Duyck et al., Scarry, Loschiavo, Diresta, and Sabourin et al. have been cited for interest because they disclose similar devices.

Any inquiry concerning this communication should be directed to Mark S. Graham at telephone number 571-272-4410.

MSG  
12/22/04



Mark S. Graham  
Primary Examiner  
Art Unit 3711